

Smith, Molly

From: Osadjan, Marie F. <Marie.Osadjan@bp.com>
Sent: Tuesday, April 14, 2015 11:49 AM
To: Cantello, Nicole; Smith, Molly; R5AirEnforcement; _BEAD_FM_USER_Template
Cc: Wilson, Linda J (Whiting); Wolf, Tom; Crowe, Joan E; Leung, Emily; Perkins, Mary Ellen; Breneman, Sara
Subject: RE: BPPNA.,Whiting, IN - Request to Provide Information Pursuant to the Clean Air Act

Ms. Cantello:

BP agrees that submissions to the EPA concerning compliance with air permit requirements must be certified, and BP routinely certifies its emissions reporting under our Title V permits. However, your recent request for information and our responses do not relate to BP's compliance with its Title V air permit. You requested information on solid by-products shipped to outside parties and such activities are outside the purview of BP's Title V permit.

BP has modified the requested certification to align it with EPA's Request and will resubmit to the appropriate parties.

Best,

Marie Frances Osadjan
Managing Counsel - HSSE
BP America Inc., BP Legal
150 Warrenville Road, Mail Code 200-1W
Naperville, IL 60563
Office - 630-420-3709
Mobile - 847-922-6061
osadjamf@bp.com

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From: Cantello, Nicole [mailto:cantello.nicole@epa.gov]
Sent: Monday, April 13, 2015 1:41 PM
To: Osadjan, Marie F.; Smith, Molly; R5AirEnforcement; _BEAD_FM_USER_Template
Cc: Wilson, Linda J (Whiting); Wolf, Tom; Crowe, Joan E; Leung, Emily; Perkins, Mary Ellen; Breneman, Sara
Subject: RE: BPPNA.,Whiting, IN - Request to Provide Information Pursuant to the Clean Air Act

Hello Ms. Osadjan:

I'll field this question on Molly's behalf.

Section 114 of the Clean Air Act allows the Administrator (who has delegated her authority to the Air Division Director of Region 5) to Request an incredibly broad swath of information, including, "such other information as the Administrator may reasonably require...."

We believe EPA's request for this certification is reasonable. Further- the CAA calls for compliance certifications under 114(a)(3), which also indicates that requiring compliance certifications would not be considered "unreasonable" by any court under Section 114(a)(1). The fact that other regulated entities routinely comply with these compliance certifications shows that they are reasonable and do not place an inappropriate burden on the regulated community. Please now send a copy of the signed certification that was requested on Page 2 of the Request.

We appreciate your reply and look forward to working with BP further on this Request.

Best,

Nicole Cantello
Attorney/Advisor
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604
312/886-2870
cantello.nicole@epa.gov

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From: Osadjan, Marie F. [<mailto:Marie.Osadjan@bp.com>]
Sent: Monday, April 13, 2015 11:22 AM
To: Smith, Molly; Cantello, Nicole; R5AirEnforcement; _BEAD_FM_USER_Template
Cc: Wilson, Linda J (Whiting); Wolf, Tom; Crowe, Joan E; Leung, Emily; Perkins, Mary Ellen
Subject: RE: BPPNA.,Whiting, IN - Request to Provide Information Pursuant to the Clean Air Act

Molly,

Apologies for the late response, I have been on holiday. Our response does not include a signed certification. I am not aware of the legal authority requiring the response be certified. Can you please direct me to such authority?

Thank you,

Marie Frances Osadjan
Managing Counsel - HSSE
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Naperville, IL 60563
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Mobile - 847-922-6061
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From: Smith, Molly [<mailto:Smith.Molly@epa.gov>]
Sent: Tuesday, April 07, 2015 2:21 PM
To: Osadjan, Marie F.; Cantello, Nicole; R5AirEnforcement; _BEAD_FM_USER_Template
Cc: Wilson, Linda J (Whiting); Wolf, Tom; Crowe, Joan E; Leung, Emily
Subject: RE: BPPNA.,Whiting, IN - Request to Provide Information Pursuant to the Clean Air Act

Marie –

Thank you for the response.

Can you confirm if a hard copy is being mailed to our Chicago office, including a copy of the signed certification referenced on page 2 of the Request?

Sincerely,

Molly Smith
Environmental Scientist
U.S. EPA Region 5
Air Enforcement and Compliance Assurance, MI/WI Section
Phone: (312) 353-8773
Fax: (312) 697-2724

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From: Whalen, Toni [<mailto:Toni.Whalen@bp.com>] **On Behalf Of** Osadjan, Marie F.
Sent: Monday, April 06, 2015 5:46 PM
To: Smith, Molly; Cantello, Nicole; R5enforcement@epa.gov
Cc: Wilson, Linda J (Whiting); Wolf, Tom; Crowe, Joan E; Leung, Emily; Osadjan, Marie F.
Subject: BPPNA., Whiting, IN - Request to Provide Information Pursuant to the Clean Air Act

April 6, 2015

Smith.molly@epa.gov
Cantello.nicole@epa.gov
R5enforcement@epa.gov

United States Environmental Protection Agency
Region 5

Re: BP Products North America Inc., 2815 Indianapolis Boulevard, Whiting, Indiana 46394
Request to Provide Information Pursuant to the Clean Air Act

On March 13, 2015 BP Products North America Inc. ("BP") received USEPA's Request to Provide Information pursuant to the Clean Air Act ("RFI") concerning the delivery or storage of petroleum coke produced at BP's Whiting Refinery Business Unit ("WBU") from March 2015 through March 2017. BP's response is due by April 8, 2015 in accordance with a request for a ten (10) day extension granted by Ms. Nicole Cantello. In responding to the RFI, BP has undertaken a diligent and good faith investigation and review of information in its possession relevant to this matter and has prepared this response accordingly. However, BP asserts that, upon review of applicable law, the RFI seeks information that the USEPA does not have the right to request under the authorities cited. BP agrees to respond to questions that seek information regarding BP's emission source under the CAA and agrees to voluntarily provide information regarding current shipping of petroleum coke for the month of March 2015.

Objection to Definitions

BP objects to any definition of terms under the "Wisconsin State Implementation Plan" in that the Plan is irrelevant to the WBU.

General Objections

BP asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. BP objects to the RFI to the extent that it exceeds the authority granted to the U.S. Environmental Protection Agency under Section 114(a) of the Clean Air Act ("CAA"), 42 U.S.C. §7414(a). New Source

Review (“NSR”) compliance imposed on the WBU regarding petroleum coke concerns its storage and loading *on site*, which has been permitted under the WBU’s original Title V permit T089-6741-00453, and multiple modifications, including MSM 089-25484-00453, SPM 089-25488-00453, SSM 089-32033-00453, and SPM 089-31849-00453. The WBU was issued their Title V Renewal Permit (T089-30396-00453) in December 2014, which became effective on January 1, 2015. This is the current active permit for the WBU that contains the coke handling requirements. The WBU’s NSR compliance obligations are independent of who purchases its petroleum coke by-products.

2. BP objects to the RFI to the extent that it seeks information not relevant to the purpose stated in the RFI letter dated March 13, 2015. The RFI states: “BP owns and operates an emission source at the Whiting, Indiana facility. We are requesting this information to determine whether your emission source is complying with the CAA.” BP has a two-fold objection in that 1) the request does not ask for information concerning emissions from the emission source at the WBU, and 2) it seeks information concerning future plans that have no bearing on whether the emission source *is complying* [present tense] with the CAA.
3. BP objects to the request for information concerning BP’s plans to send/deliver/store petroleum coke at a future date as inconsistent with the Clean Air Act Section 114(a), 42 U.S.C. § 7414(a), because the information sought is not necessary to serve any of the purposes outlined in Section 114(a)(i), (ii), or (iii). Any future petroleum coke handling is not currently subject to regulation under the Clean Air Act and therefore is not within the scope of EPA's authority under Section 114(a).
4. BP objects to the RFI to the extent it seeks information on parties and matters (including start and stop times) that are currently the subject of confidential business negotiations. There is no factual information to share concerning future arrangements, and since no contract is in place it would not be prudent to divulge potential options in a competitive, proprietary environment. To the extent the request seeks information on potential arrangements not even executed, it exceeds the authority granted to the U.S. Environmental Protection Agency under Section 114(a) of the Clean Air Act (“CAA”), 42 U.S.C. §7414(a).
5. BP asserts all privileges and protections it has in regard to information sought by EPA, including the confidential business information (“CBI”) and trade secret protections and any other privilege or protection available to it under law.
6. BP objects to the RFI to the extent that it seeks information on quantities (tons per month) of petroleum coke to be sent/delivered/stored at a future time--as distant as two years hence--which is unknown and can only be speculative. BP further notes that it does not send a fixed number of tons per month to any facility and is therefore unable to respond to this request as formulated.

Notwithstanding the general and specific objections and qualifiers above, and without waiving these or other available objections or privileges, BP submits the following response to the RFI.

U.S. EPA’s Request:

1. Provide a list of all facilities where BP plans to send/deliver/store petroleum coke produced at the refinery from March 2015 through March 2017. The response must include the following:
 - a. The name of the facility;

- b. The address of the facility;
- c. The quantity sent/delivered/stored (tons per month);
- d. The proposed start time (month and year) for petroleum coke delivery/storage at the facility; and
- e. The proposed stop time (month and year) for petroleum coke delivery/storage at the facility, if applicable.

If a determination regarding the delivery/storage of a portion of the refinery's petroleum coke has not been made for the entire time period of March 2015 through March 2017, not the dates (month and year) for which a determination has been made and the quantities included in that determination as well as the start/stop time and location information as required above. For the time period for which a determination has not been made, provide a date by when a decision regarding the disposition of the remainder of the petroleum will be determined.

BP's Response:

As BP has already announced, it plans to discontinue petroleum coke shipments to Illinois facilities, though—if necessary for business reasons—BP may consider using limited Illinois-based storage options on a short-term basis provided those options are compliant with state and local regulations.

BP is currently in negotiations with transporters and non-Illinois facilities concerning future deliveries/storage of petroleum coke, but until such negotiations are completed and contracts are in place, BP has no information concerning arrangements for future facilities, future delivery quantities, or future start or stop times. At no time will BP have a fixed number of tons per month sent to any facility. BP does not expect to finalize any contracts for alternative petroleum coke handling facilities until approximately mid-2015. Further, BP will continue to consider additional options even after that date. Whatever options BP selects, BP will certainly follow all federal, state and local regulations in the transportation and storage of the by-product.

At present, BP sends/delivers/stores petroleum coke produced at its WBU to the following facilities:

On-site storage at WBU

- a. Coke Barn
- b. 129th Street, west of Dickey Road crossing, East Chicago, IN 46312
- c. In case of supply chain disruption the enclosed coke barn provides short-term backup storage for petroleum coke that ultimately gets sent elsewhere. BP does not track quantities of petroleum coke stored temporarily in its coke barn during any given month since it is not obligated to do so under any of its WBU permits.
- d. and e. Not applicable.

KCBX

- a. KCBX Chicago ("KCBX")
- b. 3259 E. 100th Street, Chicago, IL 60617
- c. **Ex. 4 (CBI)**

NOTE: BP asserts a claim of Confidential Business Information on the quantity of petroleum coke sent to KCBX.

- d. and e. BP is unable to provide a stop date for shipments of petroleum coke to KCBX because contracts are not yet in place for alternative shipping facilities.

Kinder Morgan

- a. Kinder Morgan Grand Rivers Terminal ("GRT")
- b. 1020 Dover Road, Grand Rivers, KY 42045
- c. **Ex. 4 (CBI)**

NOTE: BP asserts of claim of Confidential Business Information on the quantity of petroleum coke sent to GRT.

- d. and e. BP is unable to provide a stop date for shipments of petroleum coke to GRT because contracts are not yet in place for future shipping facilities.

Information on contractual negotiations was obtained from
Joan E. Crowe, MS&S Commercial Development Manager, BP East of Rockies Fuels Value Chain

Addresses of current petroleum coke handling facilities was obtained from
Carla Pinkney, Commercial Development Director, BP East of Rockies Fuels Value Chain

Information on quantities of petroleum coke shipped to handling facilities was obtained from
Christopher Wojtanowski, Coke Marketing Integration Specialist, BP Northwest Fuels Value Chain

Also consulted concerning BP's response:
Linda J. Wilson, Environmental Manager, BP Whiting Refinery Business Unit

If you have questions concerning this response, please contact Linda J. Wilson at 219-473-3287. For questions of a legal nature, please contact me at 630-420-3709.

Marie F. Osadjan

Managing Counsel to BP Products North America Inc.
150 W. Warrenville Road, MC 200-1W
Naperville, IL 60563